



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TEXAS SPINE AND JOINT HOSPITAL
PO BOX 203500
AUSTIN TEXAS 78720

Respondent Name

TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative

Box Number 54

MFDR Tracking Number

M4-13-0301-01

MFDR Date Received

September 27, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor's DWC060 request did not include a position summary with the DWC060 packet. The requestor submitted a copy of an appeal letter addressed to the insurance carrier for the denial of an epidural steroid injection dated December 14, 2011, which states in part "[Injured employee] deserves immediate care in the form of an epidural, and she deserves an immediate neurosurgical evaluation. If we are to help her avoid surgery then we need to perform an epidural or two to see if she can get pain relief. . ."

Amount in Dispute: \$5,959.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor provided surgical outpatient services for a transforaminal epidural steroid injection to the claimant due to reports of severe pain. This treatment was not preauthorized. The requestor provided the injection nevertheless. However, the documentation justifying the intervention does not document any emergency as defined by Rule 133.2."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 21, 2011	64483, Q9967, J3350, J3010, J1030 and J1040	\$5,959.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.600 sets out the guidelines for Preauthorization, Concurrent Review, and Voluntary Certification of Health Care.
3. 28 Texas Administrative Code §133.2 sets out the definitions for Chapter 133 titled *General Medical Provisions*.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- CAC-197 – Precertification/authorization/notification absent
- 930 – Pre-authorization required, reimbursement denied
- CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly
- 891 – No additional payment after reconsideration

Issues

1. Did the requestor obtain preauthorization for the disputed charges?
2. Did the requestor submit documentation to support a medical emergency?
3. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Labor Code 134.600 "(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur: (A) an emergency, as defined in Chapter 133 of this title (relating to General Medical Provisions); (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care."
 - The requestor seeks payment for facility charges rendered on December 21, 2011. The requestor did not obtain preauthorization for the disputed facility charges, and seeks payment indicating that the services were rendered due to a medical emergency.
 - Review of Dr. Jonathan Blau's appeal letter for the preauthorization denial of the epidural steroid injections dated December 14, 2011, states in part "She has already been referred to a spine surgeon for consideration of possible decompression. She has been living in horrible pain in the meantime while her care has been blocked, and interfered with unnecessarily. . ."
2. 28 Texas Administrative Code §133.2 "(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise: (4) Emergency--Either a medical or mental health emergency as follows: (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part; (B) a mental health emergency is a condition that could reasonably be expected to present danger to the person experiencing the mental health condition or another person."
 - Review of the submitted "Return Office Visit" note dated December 21, 2011 states "[Injured Employee] is reporting that she is having severe pain. She has not had anything done for her pain due to workers compensation insurance blockades. She has not had the neurosurgical consultation because we were waiting on approval for the epidural, and because very few surgeons accept workers comp. . . . She is tearful. . . We are going to go ahead and proceed with left L5 epidural as indicated by her imaging, and exam and complaint. . ."
 - Review of the requestor's documentation does not document that the injured employee's condition would place the patient's health or bodily functions in serious jeopardy and or cause serious dysfunction of any body organ or part.
3. 28 Texas Labor Code §134.600 "(p) Non-emergency health care requiring preauthorization includes: (2) outpatient surgical or ambulatory surgical services as defined in subsection (a) of this section."
 - The requestor did not submit medical records to support a medical emergency as required by Rule 133.2.
 - The division finds that the disputed services were subjected to the provisions of 28 Texas Labor Code §134.600 (p). As a result, reimbursement cannot be recommended for date of service December 21, 2011.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	September 13, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.